IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 287 OF 2005

IN

WRIT APETITION NO. 834 OF 2005

Bajaj Auto Limited. .... Petitioner.

Versus

Union of India & Ors... ... . Respondents.

-: ALONG WITH :-

CHAMBER SUMMONS NO. 265 OF 2005

IN

WRIT APETITION NO. 834 OF 2005

Bajaj Auto Limited. .... Petitioner.

Versus

Union of India & Ors... ... . Respondents.

Mr. S.H. Doctor, Sr. Counsel with Mr. Janak Dwarkadas, Sr. Counsel and Mr.Jagtiani i/by M/s. Malvi Ranchhoddas & Co. for the Petitioner.

Mr. Y.R. Mishra with Mr. Y.S.Bhate for Respondent No.1.

Mr. I. Chagla, Sr. Counsel with Mr. M. Sathe, Mr. D. Khambata and Mr. A.S.Doctor i/by Kanga

& Co., for Respondent No.3.

Mr. B. P. Saraf with Mr. R. Gajaria i/by M/s.Gajaria & Co. for Respondent No.4.

CORAM : V.G. PALSHIKAR, and V.R.KINGAONKAR, JJ.

DATED : 2ND MAY 2006.

P.C.:

By these Chamber Summonses the original Petitioner seeks to amend the petition by adding one more Petitioner and certain additional grounds to those already raised in its original writ petition.

2. Writ Petition No. 834 of 2005 is filed by the Petitioner - Bajaj Auto Limited, challenging the order passed by the Regional Director of Companies under Section 22 of the Companies Act, 1956. The matter was heard for admission for quite some time and by an elaborate order Rule was granted making all further actions to be taken by the Respondents herein subject to final result of the hearing. When the Petition came up for final hearing, somewhere in October, 2005, these Chamber Summonses were moved seeking the amendments as aforesaid. Time was sought to file reply to the Summonses and today the matter is listed for deciding these Chamber Summonses.

3. Learned Counsel appearing on behalf of the Petitioner submitted, relying heavily on the several judgments of the Supreme Court, that these amendments do not change the nature of cause of action which gave rise to the main petition. It only seeks additions of certain grounds not taken hither to before and seeks to add one more individual whose rights to challenge the order impugned in the petition is already there and he additionally has certain challenges to that order under Article 19 of the Constitution of India.

4. One thing must be noticed very clearly that the cause of action by the above Chamber Summons sought to be added is clear and he seeks to challenge the order passed by the Regional Director of Companies on grounds mentioned in the petition as also on grounds sought to be added by the above Chamber Summons. Those rights can be exercised by the said person by filing independent writ petition also. The contention on behalf of the Petitioner is that will be an avoidable addition of litigation and therefore need not be resorted to.

5. These submissions were countered by the learned Counsel appearing on behalf of the Respondents,

basically admitting the position in law that usually amendment applications are not opposed unless there is serious injury likely to be caused by the amendment sought. It is also objected to by Respondent No.4 on the ground that the Summonses themselves are basically defective as they seek to add the individual as Petitioner though the affidavit of that individual is not accompanying the Summonses nor the summonses are moved by that individual.

6. We have given our anxious consideration to the submissions made. It cannot be disputed that the contentions raised in the petition or grounds of challenge available to the Petitioner are substantially the same and the additions sought are an independent right of an individual which cause cannot be combined with the cause of a Company like the Petitioner. The substantial challenge to the order under the Companies Act being same, no fruitful purpose will be served by allowing these amendments as the submissions on law and interpretation of Section 22 of the Companies Act are the basic challenges involved in this petition. Apart from this, the Petitioner Company having itself filed the petition somewhere in March, 2005, was obviously aware of the

pendency of the petition and the lacuna therein, if any, and could have initially filed the petition with an individual as additional petitioner or could have moved the Summons for that purpose in time before the matter was taken up for admission and Rule was granted by reasoned order.

7. Taking into consideration the fact that no injury of substantial nature would be caused to the Petitioner, the Chamber Summons for amendment is rejected. The earlier Chamber Summons No. 265 of 2005 is also rejected.

8. List the writ petition for final hearing on 13th June, 2006.

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